IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5403 OF 2004

1. Smt Nirmalabai Devajirao Thoke.. Petitioner

versus

1. Smt Bhagirathibai Pandurang Nikam
& 1 anr. .. Respondents

Mr.P.N.Joshi for Petitioner

None for Respondents

CORAM : D.G.KARNIK, J

DATED : 27th January, 2006

P.C.

1. By this petition, the petitioner challenges the order dated 18th February, 2003 passed by the Secretary and Officer on Special Special Duty (Appeals) Revenue Department, Government of Maharashtra, Mumbai.

2. By the impugned order, the Secretary and Officer on Special Duty exercising powers of the government has allowed the appeal and remanded the matter back to the Settlement Commissioner for hearing the matter afresh after giving an appropriate hearing to all the parties concerned.

The Secretary and Officer on Special Duty has noted that the provisions of section 32 (1) of the Bombay Prevention of Fragmentation and Consolidation of Holdings Act,1947 were not strictly observed and followed and therefore he has remanded the matter. In view of the finding that provisions of the Act were not followed the order of remand was obviously proper. In the circumstances, no interference is called for in exercise of writ jurisdiction under Article 227 of the Constitution of India. Petition is rejected summarily.

(D.G. KARNIK, J)